to allow sureties to enforce a contract which, if discovered by the court when the bail was offered, would have prevented its acceptance. *Herman* v. *Jeuchner,* 15 Q. B., Div. 561, does not allow the principal to recover money deposited as indemnity with the surety even after the time of the obligation has expired and the principal made no default, holding the contract of indemnity void. *Reynolds* v. *Harral,* 2 Strob. (S. C.) 87, is the only case found which supports the opposite doctrine. It is clearly erroneous, being founded on the authority of a civil bail case. There is no discussion of the merits of the question. The doctrine of the principal case that to allow a contract by the principal to indemnify his surety against his non-appearance takes away all incentive on the part of the surety to insure such appearance is unanswerable. The law demands the obligation of two persons.

THEATERS—NEGLIGENCE—INJURY TO SPECTATOR—SUFFICIENCY OF PLEADINGS.—Plaintiff, while a spectator in defendant's theater, was injured, owing to a performer on a bicycle having ridden off the stage into the audience. In an action to recover damages for injuries sustained, *held,* that an allegation of the declaration that it was the defendant's duty to have provided some protection to prevent such an event was not demurrable on the ground that the defendant was under no such obligation to the plaintiff. *Brown* v. *Batchellor* (1908), — R. I. —, 69 Atl. 295.

As bearing upon the degree of care which the law imposes upon the owners and managers of exhibitions and places of amusement, it appears to be settled that reasonable care in such cases is the measure of duty. *Williams* v. *Mineral City Park Association,* 128 Ia. 32; *Hart* v. *Washington Park Club,* 157 Ill. 9, 54 Ill. App. 480, 41 N. E. 620; *Fox* v. *Buffalo Park,* 21 App. Div. 321, 47 N. Y. Supp. 788; *Lane* v. *Minnesota State Agricultural Society,* 62 Minn. 175, 64 N. W. 382; *Schofield* v. *Wood,* 170 Mass. 415, 49 N. E. Rep. 636; *Dunn* v. *Brown County Agricultural Society,* 46 Ohio St. 93, 18 N. E. 496; *Mastad* v. *Swedish Brethren,* 83 Minn. 40, 85 N. W. 913; *Richmond & M. Ry. Co.* v. *Moore's Admr.,* 94 Va. 493, 27 S. E. 70; *Thompson* v. *Lowell, L. & H. St. R. Co.,* 170 Mass. 577, 49 N. E. 913; *Sebeck* v. *Plattdeutsche Volkfest Verein,* 64 N. J. L. 624, 46 Atl. 631. As to the duty of reasonable care to trespassers see *Herrick* v. *Wixom,* 121 Mich. 384, 80 N. W. 117. The decision of the lower court sustaining the demurrer in the principal case apparently is based upon the case of *Sebeck* v. *Plattdeutsche Volkfest Verein,* supra. This case, however, does not appear to be directly in point. In the latter case a person was witnessing an exhibition of fireworks and was injured by the premature explosion of a bomb, there being no barrier to prevent any of the fragments which might come from the explosion from injuring the plaintiff; nevertheless the court held that the only duty which the defendant owed to a spectator under the circumstances was to use reasonable care in selecting a person who is skilled in the manufacturing of fireworks and exhibitions thereof, and that a barrier which would insure perfect safety to those present would prevent the spectators from witnessing such exhibition, and that the dangers that would result

in the absence of such safeguards must be assumed by them. The case of *Smith* v. *Benick*, 87 Md. 610, 41 Atl. 56, is in accord in so far as it holds that the only duty owing to a defendant under circumstances similar to these is to use reasonable care to provide skillful performers. In *Thompson* v. *Lowell, L. & H. St. R. Co.*, supra, the court held that the risk of injury from careless handling of the implements used by the performer is not, as a matter of law, assumed by a street patron who attends a free exhibition given by the company upon its grounds. In this latter case the negligence consisted in the failure to erect upon the stage a proper rifle butt, which would prevent the flying of bullets. It appears that the liability of such an accident might have been guarded against without interfering with the view of the audience. In the principal case the supreme court overruling the decision of the lower court in sustaining the defendant's demurrer to plaintiff's declaration suggests that a wire netting of sufficient strength, but barely visible, would be such a barrier as to provide a safe place for the spectators under the circumstances, and at the same time assure them the benefit of viewing the performance. It is apparent that under the ruling of the court, the liability of the defendant does not cease after engaging skillful performers, as the defendant is not relieved of liability until a safe and suitable barrier is provided to prevent injury to spectators.

TRADE-MARKS AND TRADE-NAMES—INFRINGEMENT—UNFAIR COMPETITION —INJUNCTION.—For many years the order of Carthusian monks in France manufactured, by a secret process, a liqueur which was sold extensively in the United States under the name "Chartreuse," where such name is a registered trade-mark. The order having been expelled from France by the government, its entire property, including good-will and trade-marks, was sold by an order of the court to the defendant company, which thereupon commenced the manufacture of a wine which it sold in this country under the name "Chartreuse." The monks fled to Spain, where they continued to manufacture their former liqueur and to sell it here, not, however, under the former name. *Held*, that the action of the French government did not vest the defendant with the right to use the original trade-mark. *Baglin* v. *Cusenier Co.* (1908), — C. C. A., 2nd Cir. —, 164 Fed. 25.

No cases are cited as direct authority for the decision, the court observing that it is confronted with a situation which "*is sui generis*" and that it is "hardly possible that such a combination of abnormal circumstances can ever occur again." The defendant is enjoined from selling its wine under the former trade-mark, upon the theory that while the monks have abandoned their right to it *de facto*, they still retain it *de jure*, and that the defendant, by using the name "Chartreuse" to designate a wine different from that formerly so sold, is perpetrating a fraud upon the public. There is a dissenting opinion which holds that the monks had no vested interests in France, owing to the peculiar status of religious orders there, and that when their property, business, good will and trade-marks were sold under judicial process all their rights therein passed to the purchaser, there being no difference between such a transfer and a conveyance by operation of law.